

## CLAIMS RESULTING FROM ACTIVITIES OF U.S. MILITARY FORCES

*Exchange of notes at Nanking October 13, 1947, and March 17, 1948  
Entered into force March 17, 1948*

62 Stat. 2116; Treaties and Other  
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*The American Embassy to the Ministry for Foreign Affairs*

No. 1197

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Republic of China and has the honor to refer to the latter's note, no. T'ai-o-36/09410, of May 8, 1947, outlining certain suggestions in regard to investigation and payment of claims against the United States Government arising out of activities of the United States military forces in China. The note referred to was responsive to memorandum no. 885-19, dated February 28, 1946, submitted by Lieutenant General Albert C. Wedemeyer to His Excellency, President Chiang Kai-shek.

It is apparent that General Wedemeyer's proposal was made in light of the conditions then existing. Various military bases in Western China had been evacuated and a number of claims had not been settled nor other disposition made. The parts of China where the claimants lived were becoming inaccessible to American troops. Facilities for investigation and payment of accident claims were not readily available. The number of American military personnel in China was being reduced radically. What American Forces would remain in China was undecided.

The circumstances of early February 1946 were substantially different from those now prevailing. Claims which were then outstanding have been settled or other disposition of them has been made. Incidents and accidents reported have been investigated. Because of the lapse of time since American forces have withdrawn from remote areas, it is unlikely that additional incidents from those areas will be reported in the future. Claims arising from incidents occurring currently have been, and are being, processed under the provisions of the Act of Congress commonly referred to as the Foreign Claims Act and related regulations of the Army and Navy. The number of claims being

presented now is small and sums of money involved are relatively limited. Conditions affecting claims have become more stabilized in the past months with the continued presence in China of certain elements of the United States Navy, the Army Advisory Group, Naval Advisory Group Survey Board, and units of American Graves Registration Service and Air Transport Command. Within these organizations there is, at the present time, sufficient personnel to adequately process new claims as they develop.

For these reasons the bases for General Wedemeyer's proposal appear to exist no longer. The classification of claims as to type mentioned in the Ministry's note of May 8, 1947 would not seem to be applicable under conditions now obtaining. The offer of the Chinese Government to assume the responsibility for investigation and disposition of such indemnity cases is appreciated. Nevertheless, in view of the change in circumstances further consideration of the matter is suggested.

As an alternative, it is proposed that claims against the United States within the scope of the Foreign Claims Act and similar pertinent acts of Congress arising out of the activities of the United States Army, Navy and Air Forces in China be processed by Army, Navy or Air Force agencies in the same manner as is now being done under Army and Navy regulations. With the exception of the classifications to be discussed hereinafter, it is intended that the indemnities awarded by said agencies be paid from United States funds. The exceptions referred to are:

A. Claims by or on behalf of individuals assigned to work for the Naval Advisory Group Survey Board or Army Advisory Group (including the Air Forces) whose salary is paid by or from Chinese funds, and whose claims are based upon an illness, injury, incident or accident arising in the course of such employment.

B. Claims for damages for injury to person or property by or on behalf of any firm or corporation, or person who does not come within the purview of the last preceding paragraph (A), whose claims are based upon an accident or incident arising out of the activities of the Naval Advisory Group Survey Board or Army Advisory Group.

With respect to the two classes of claims last mentioned (paragraphs A and B), it is proposed that the indemnities awarded claimants by agencies of the United States Army, Navy or Air Forces, be paid from the Nanking Revolving Fund or other funds of the Republic of China which will be made available for this purpose by the Chinese Government.

These proposals, of course, relate to claims other than those arising from procurement or any other contracts and are limited generally to the kind of claims mentioned in the fifth paragraph hereof.

The Embassy suggests that the Ministry make known its views as to the principles herein set forth. If the Government of the Republic of China agrees with these principles, it is further suggested that the details of the administra-

tion thereof be agreed upon by and between the Ministry of National Defense and the Chief, Army Advisory Group, and the Senior Member of the Naval Advisory Group Survey Board, or their duly authorized representatives.

NANKING, *October 13, 1947*

W.T.T.

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*The Ministry for Foreign Affairs to the American Embassy*

[TRANSLATION]

MINISTRY OF FOREIGN AFFAIRS

*March 17, 1948*

No. Wai-(37)-T'iao-Erh/06591

The Ministry of Foreign Affairs presents its compliments to the American Embassy and has the honor to refer to the Embassy's third person note No. 1197 of October 13, 1947. In this note, the Embassy considered, in connection with the question of compensation arising out of activities of the United States military forces in China, that General Wedemeyer's proposal which was made on the basis of the conditions then existing can no longer be applicable under the present conditions, and in view of the change in circumstances it is proposed as follows:

Claims (against the United States) within the scope of the Foreign Claims Act and similar pertinent acts of Congress arising out of the activities of the United States Army, Navy and Air Forces in China be processed by Army, Navy or Air Forces agencies in the same manner as is now being done under Army and Navy regulations. With the exception of the following types of claims, it is intended that the indemnities awarded by said agencies be paid from United States funds. The exceptions referred to are:

A. Claims by or on behalf of individuals assigned to work for the Naval Advisory Group Survey Board or Army Advisory Group (including the Air Forces) whose salary is paid by or from Chinese funds, and whose claims are based upon an illness, injury, incident or accident arising in the course of such employment.

B. Claims for damages for injury to person or property by or on behalf of any firm or corporation, or person who does not come within the purview of the last preceeding paragraph (A), whose claims are based upon an accident or incident arising out of the activities of the Naval Advisory Group Survey Board or Army Advisory Group.

With respect to the two classes of claims last mentioned, it is proposed that the indemnities awarded claimants by agencies of the United States Army, Navy or Air Forces, be paid from the Nanking Revolving Fund or other funds of the Republic of China which will be made available especially for this purpose by the Chinese Government.

These proposals refer to claims other than those arising from procurement or any other contracts and are limited generally to the types of claims stated in the above-mentioned acts.

The Embassy suggests that if the Government of the Republic of China agrees with these principles, the details for the implementation thereof be agreed upon by and between the Ministry of National Defense and the Chief, Army Advisory Group and the Senior Member of the Naval Advisory Group Survey Board, or their duly authorized representatives.

The Embassy is informed in reply that the various principles suggested in the Embassy's note under reference are agreeable to the Chinese Government. The Ministry of National Defense is being requested by the Ministry of Foreign Affairs in writing to consult forthwith with the Chief, Army Advisory Group, and the Senior Member of the Naval Advisory Group Survey Board, or their duly authorized representatives for the establishment of the details for the implementation thereof.

MINISTRY OF FOREIGN AFFAIRS  
OF THE REPUBLIC OF CHINA